

WETZEL & ASSOCIATES, P. A.

Benjamin C. Wetzel, III

The Carriage House, Suite 201
1100 North Grant Avenue
Wilmington, Delaware 19805

Telephone: 302.652.1200
Facsimile: 302.652.1900
E-mail: bwetzel@wetzellaw.com

June 1, 2006

VIA E-FILE

The Honorable Kent A. Jordan
U.S. District Court
844 N. King Street
Lock Box 10
Wilmington, DE 19801

RE: Gorbey, et al. v. Longwill, et al.
C. A. No.: 05-0211 KAJ
Our File No.: 7264

Dear Judge Jordan:

Plaintiff respectfully seeks to correct a misstatement of law contained in the Brief in Support of Plaintiff's Response in Opposition to the Ashland Defendants' Motion for Summary Judgment as to Liability. (D.I. 99) In part III of the argument section of plaintiff's brief at page 8, discussing Rabar v. E.I. DuPont de Nemours & Co., Inc., 415 A.2d 499 (Del. Super. 1980) the brief states, "Conspicuously absent in Moving Defendants' Brief is an acknowledgement that this case is no longer good law – it has been *overruled* (overruling recognized by Hawthorne v. Edis Co., 2003 WL 23009254 (Del. Super. Jul.14, 2003))."

Upon further review of the relevant case law, including Hawthorne, plaintiff agrees with the Ashland Defendants that Rabar was overruled in part, but on *other* grounds. Plaintiff acknowledges that Rabar's work area control test is still good law, and wishes to correct its misstatement of the law with the Court. While Rabar's overruling was on other grounds, plaintiff respectfully maintains, however, that Rabar is unavailing to the Ashland defendants for the reasons articulated in the brief.

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The undersigned apologize to the Court for any inconvenience this misstatement of law may have caused, and are available if the Court requires any additional information

Respectfully submitted,

/s/ Benjamin C. Wetzel, III

/s/ Matthew A. Casey

cc: Chase T. Brockstedt, Esquire (via e-file)
Kevin J. Connors, Esquire (via e-file)